

_____ BILL NO. _____

INTRODUCED BY _____

(Primary Sponsor)

A BILL FOR AN ACT ENTITLED: "AN ACT CLARIFYING LAWS RELATED TO LIMOUSINES, TAXIS, AND TROLLEYS; AFFIRMING FEDERAL REGULATION OF CHARTER BUS TRANSPORTATION; DEFINING "CHARTER TRANSPORTATION OF PASSENGERS" AND "CHARTER BUS"; PROHIBITING COMPANIES RENTING A MOTOR VEHICLE FROM PROVIDING A MOTOR VEHICLE AND DRIVER; REQUIRING BACKGROUND CHECKS FOR CLASS B DRIVERS; REQUIRING RANDOM DRUG TESTS FOR CLASS B OPERATORS; REQUIRING RATE SCHEDULES TO BE POSTED ON TAXICABS; ALLOWING THE PUBLIC SERVICE COMMISSION TO COLLECT CERTAIN FEES; PROVIDING DEFINITIONS OF CERTAIN MOTOR VEHICLES AND CLASS B MOTOR CARRIER SERVICES; REVISING PENALTIES FOR VIOLATING CERTAIN MOTOR CARRIER STATUTES; REVISING THE CLASS B MOTOR CARRIER CERTIFICATE APPLICATION AND HEARING PROCESSES; REQUIRING THE PUBLIC SERVICE COMMISSION TO UPDATE EXISTING CLASS B CERTIFICATES UPON SALE, MODIFICATION, LEASE, OR OTHER CHANGE; AND AMENDING SECTIONS 69-1-114, 69-12-101, 69-12-108, 69-12-301, 69-12-312, AND 69-12-321, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. Section 1. Charter transportation of passengers -- regulation. (1) Charter transportation of passengers using a charter bus that is not regulated under 49 U.S.C. 14501 is subject to regulation by the commission under this chapter.

(2) For the purposes of this section, "charter transportation of passengers" has the meaning provided in 49 CFR 390.5.

NEW SECTION. Section 2. Companies renting motor vehicles prohibited from providing drivers.

(1) A person, corporation, or another legal entity renting motor vehicles as a business may not lease, sell, provide, or otherwise charge for providing a driver with a rental vehicle.

(2) A person, corporation, or another legal entity may not offer the services of a driver in any manner in conjunction with a rental vehicle.

(3) An affiliate, subsidiary, or other legal entity of a person, corporation, or other legal entity that rents

motor vehicles may not provide driver services in conjunction with vehicle rentals offered by a different person, corporation or other legal entity.

NEW SECTION. Section 3. Background check and drug tests for Class B chauffeurs. (1) (a) A Class B motor carrier shall perform a background check on a person applying for employment as a driver of a motor vehicle for hire before the motor carrier may hire or offer employment as a driver to the person.

(b) A Class B motor carrier may not hire as a driver of a motor vehicle for hire a person who has been convicted in the past 5 years:

(i) of a felony crime;

(ii) of driving under the influence of alcohol or drugs pursuant to Title 61, chapter 8, part 4; or

(iii) under any state or federal law relating to any controlled substance or dangerous drug.

(c) A Class B motor carrier may not hire as a driver of a motor vehicle for hire a person who has an outstanding warrant for the person's arrest.

(2) A Class B motor carrier shall perform random drug tests at least once a year on drivers responsible for transporting the public.

NEW SECTION. Section 4. Posting of rate schedules on taxicabs. A taxicab must have a rate schedule posted in a clearly visible location on both front doors.

Section 5. Section 69-1-114, MCA, is amended to read:

"69-1-114. Fees. (1) Each fee charged by the commission must be reasonable.

(2) Except for a fee assessed pursuant to 69-3-204(2), 69-8-421(10), 69-12-312(3), or 69-12-423(2), a fee set by the commission may not exceed \$500.

(3) All fees collected by the department under 69-8-421(10) must be deposited in an account in the special revenue fund. Funds in this account must be used as provided in 69-8-421(10)."

Section 6. Section 69-12-101, MCA, is amended to read:

"69-12-101. Definitions. Unless the context requires otherwise, in this chapter, the following definitions apply:

(1) "Between fixed termini" or "over a regular route" means the termini or route between or over which

1 a motor carrier usually or ordinarily operates motor vehicles, even though there may be periodical or irregular
2 departures from the termini or route.

3 (2) "Certificate" means the certificate of public convenience and necessity issued under this chapter.

4 (3) "Charter bus" means a motor vehicle used to transport people, on a charter basis, with a minimum
5 capacity of 32 passengers, that is hired to provide services for a person or group of persons traveling from one
6 location to another for a common purpose. A charter bus does not provide regular route service from one location
7 to another.

8 ~~(3)(4)~~ "Compensation" means the charge imposed on motor carriers for the use of the highways in this
9 state by motor carriers under 69-12-421.

10 ~~(4)(5)~~ "Corporation" means a corporation, company, association, or joint-stock association.

11 ~~(5)(6)~~ "For hire" means for remuneration of any kind, paid or promised, either directly or indirectly, or
12 received or obtained through leasing, brokering, or buy-and-sell arrangements from which a remuneration is
13 obtained or derived for transportation service.

14 ~~(6)(7)~~ (a) "Garbage" means ashes, trash, waste, refuse, rubbish, organic or inorganic matter that is
15 transported to a licensed transfer station, licensed landfill, licensed municipal solid waste incinerator, or licensed
16 disposal well.

17 (b) The term does not include wastewater and waste tires.

18 ~~(7)(8)~~ (a) "Household goods" means any of the following:

19 ~~(a)(i)~~ personal effects and property used or to be used in a dwelling when they are a part of the
20 equipment or supply of the dwelling; ~~The term does not include property moving from a factory or store unless~~
21 ~~the property is purchased by a householder for use in a dwelling and is transported at the request of the~~
22 ~~householder.~~

23 ~~(b)(ii)~~ furniture, fixtures, equipment, and the property of stores, offices, museums, institutions, hospitals,
24 or other establishments when those items are a part of the stock, equipment, or supply of the stores, offices,
25 museums, institutions, hospitals, or other establishments; ~~The term does not include the stock-in-trade of an~~
26 ~~establishment, whether consignor or consignee, other than used furniture and used fixtures, except when~~
27 ~~transported as incidental to moving of the establishment or a portion of the establishment from one location to~~
28 ~~another.~~

29 ~~(c)(iii)~~ articles, including objects of art, displays, and exhibitions that because of their unusual nature or
30 value, require the specialized handling and equipment usually employed in moving household goods and other

1 similar articles.

2 (b) The term does not include:

3 (i) property moving from a factory or store unless the property is purchased by a householder for use
4 in a dwelling and is transported at the request of the householder; or

5 (ii) the stock-in-trade of an establishment, whether consignor or consignee, other than used furniture and
6 used fixtures, except when transported as incidental to moving of the establishment or a portion of the
7 establishment from one location to another.

8 (9) "Limousine service" means prearranged transportation provided by a hired, uniformed driver for the
9 exclusive use of a group or party over a nonscheduled route. Limousine rates are based on hours of use or a flat
10 fee and are not regulated by the commission.

11 ~~(8)~~(10) "Motor carrier" means a person or corporation, or its lessees, trustees, or receivers appointed by
12 a court, operating motor vehicles upon a public highway in this state for the transportation of passengers,
13 household goods, or garbage for hire on a commercial basis, either as a common carrier or under private
14 contract, agreement, charter, or undertaking.

15 ~~(9)~~(11) "Motor vehicle" includes vehicles or machines, motor trucks, tractors, or other self-propelled
16 vehicles used for the transportation of property or persons over the public highways of the state.

17 ~~(10)~~(12) "Person" means an individual, firm, or partnership.

18 ~~(11)~~(13) "Public highway" means a public street, road, highway, or way in this state.

19 ~~(12)~~(14) "Railroad" means the movement of cars on rails, regardless of the motive power used.

20 ~~(13)~~(15) "Recyclable" means any material diverted from the solid waste stream that can be reused in the
21 production of heat or energy or as raw material for new products and for which markets exist.

22 (16) "Taxicab" means a light vehicle, as defined in 61-1-101, that is readily identifiable as a taxicab
23 through use of a lighted rooftop sign. A taxicab may not have interior or exterior enhancements that would imply
24 that it is used to provide limousine service or that would otherwise confuse the public as to its use.

25 (17) "Taxicab service" means providing a taxicab for public hire on a call-and-demand basis with the
26 passenger entitled to designate the destination, route, or stops. The fee for taxicab service is based upon the
27 mileage driven.

28 (18) "Trolley bus service" means prearranged transportation of a group of passengers in a vintage or
29 replica motorized trolley or other vintage vehicle carrying 16 passengers or more. A trolley bus does not provide
30 regular route service from one location to another."

1
2 **Section 7.** Section 69-12-108, MCA, is amended to read:

3 **"69-12-108. Violations.** (1) Any Except as provided in subsections (2) through (4), a motor carrier
4 subject to the provisions of this chapter,~~as amended~~; or whenever any such the motor carrier is a corporation,
5 any a director or officer thereof of the corporation; any a receiver, trustee, lessee, agent, or person acting for or
6 employed by such the corporation; any a person, corporation, or association or its officer, agent, or employee
7 thereof; or any broker of property or officer, agent, or employee thereof of the broker who violates or fails to
8 comply with or who procures, aids, or abets in the violation of any provision of this chapter,~~as amended~~; or who
9 fails to obey, observe, or comply with any lawful order, decision, rule, direction, demand, or requirement of the
10 commission or any part of the related provisions thereof established by the commission is:

11 ~~(1)(a)~~ (a) subject to a civil penalty, to be collected and deposited ~~to in~~ in the general fund by the commission
12 after notice and hearing, in an amount ~~not less than \$25 or more than of \$500 for the first offense, and not less~~
13 ~~than \$25 or more than \$1,000~~ \$1,500 for each subsequent a second offense, and \$3,000 for a subsequent
14 offense; or

15 ~~(2)(b)~~ (b) subject, upon conviction in a justice's court, to a fine of ~~not less than \$25 or more than \$500 for~~
16 ~~the first offense, and not less than \$25 or more than \$1,000~~ \$1,500 for a second offense, and \$3,000 for each
17 subsequent offense.

18 (2) (a) Each day in which a motor vehicle is operated as described in 69-12-106 without a Class B motor
19 carrier certificate must be considered a separate offense.

20 (b) Multiple violations under subsection (2)(a) by the same person or corporation must be considered
21 separate offenses.

22 (3) (a) In addition to the fine required under subsection (1)(a) or (1)(b), the commission may order the
23 immediate impoundment of the vehicle.

24 (b) The vehicle must be released after 60 days.

25 (c) The commission may charge a reasonable fee to the vehicle owner for storage costs."
26

27 **Section 8.** Section 69-12-301, MCA, is amended to read:

28 **"69-12-301. Classification of motor carriers.** (1) Motor carriers are divided into four classes to be
29 known as:

30 (a) Class A motor carriers;

(b) Class B motor carriers;

(c) Class C motor carriers; and

(d) Class D motor carriers.

(2) Class A motor carriers include all motor carriers operating between fixed termini or over a regular route and under regular rates or charges, based upon either station-to-station rates or upon a mileage rate or scale.

(3) (a) Class B motor carriers include all motor carriers operating under regular rates or charges based upon either station-to-station rates or upon a mileage rate or scale and not between fixed termini or over a regular route.

(b) A person or corporation shall apply separately for each of the following types of service that the person or corporation seeks to provide:

(i) limousine service;

(ii) taxicab service; and

(iii) trolley bus service.

(4) Class C motor carriers include all motor carriers where the remuneration is fixed in and the transportation service furnished under a contract, charter, agreement, or undertaking.

(5) Class D motor carriers include all motor carriers operating motor vehicles transporting garbage."

Section 9. Section 69-12-312, MCA, is amended to read:

"69-12-312. Class B motor carrier certificate. (1) ~~No~~ A Class B motor carrier ~~shall~~ may not operate for the transportation of persons, ~~and/or property, or both~~ for hire on ~~any~~ a public highway in this state without first having obtained from the commission, under the provisions of this chapter, a certificate or certificates that public convenience and necessity require ~~such~~ the operations.

(2) A motor carrier making application for ~~such a Class B~~ permit shall do so in writing, separately for each locality and type of service for which consideration is desired, ~~which. The petition shall~~ must be verified by the commission and ~~shall~~ must specify the following matters:

(a) the name and address of the applicant and the names and addresses of its officers, if any;

(b) the kind of transportation, whether passenger, freight, or both, together with a full and complete description of the character of the vehicle or vehicles to be used, including the seating capacity of any vehicle to be used for passenger traffic and the tonnage capacity of any vehicle to be used in freight traffic;

1 (c) the locality and character of operations to be conducted;

2 (d) a schedule of the tariff of rates desired to be charged for the transportation of freight, ~~and/or~~
3 passengers, or both;

4 (e) a complete and detailed description of the property proposed to be devoted to the public service;

5 (f) a detailed statement showing the assets and liabilities of ~~such~~ the applicant; and

6 (g) ~~such~~ other or additional information ~~as that~~ that the commission may by order require.

7 (3) ~~Such~~ The application ~~shall~~ must be accompanied by a filing fee ~~to be set by rule of the commission~~
8 of \$1,000. If there are no protests to the application, or if a protest is made but the person protesting does not
9 appear at the subsequent hearing, the applicant must be refunded \$500 of the application fee.

10 (4) A Class B motor carrier certificate must specify which of the services provided in 69-12-301(3)(b) the
11 motor carrier is approved to provide.

12 (5) A Class B motor carrier certificate must specify the number of passengers that a motor carrier is
13 allowed to carry for the type of service provided."

14
15 **Section 10.** Section 69-12-321, MCA, is amended to read:

16 **"69-12-321. Hearing on application for motor carrier certificate.** (1) Upon the filing of an application
17 by a Class A, Class B, Class C, or Class D motor carrier, except a Class C motor carrier authorized to operate
18 under the terms of a contract as provided in 69-12-324, or upon the filing of a request for a transfer of authority,
19 the commission shall give notice of the filing of the application to any interested party. The commission shall fix
20 a time and place for a hearing on the application whenever a protest or a request for a hearing is received. The
21 hearing must be set for a date not later than 60 days after receipt of a protest or a hearing request by the
22 commission. Whenever no protests or hearing requests are received, the commission may act on the application
23 without a hearing as prescribed by commission rules.

24 (2) A motor carrier referred to in 69-12-322, the department of transportation, the governing board or
25 boards of any county, town, or city into or through which the route or service as proposed may extend, and any
26 person or corporation concerned are interested parties to the proceedings and may offer testimony for or against
27 the granting of the certificate.

28 (3) The contracting parties referred to in 69-12-313(4) must appear and offer testimony in support of the
29 applicant.

30 (4) However, an application by a Class A, Class B, Class C, or Class D motor carrier for a certificate may

1 be disallowed without a public hearing when it appears from the records of the commission that the route or
2 territory sought to be served by the applicant has previously been made the basis of a public investigation and
3 finding by the commission that public convenience and necessity do not require the proposed motor carrier
4 service unless it is made to affirmatively appear in the application by a recital of the facts that conditions obtaining
5 over the route or in the territory and affecting transportation facilities have materially changed since the previous
6 public investigation and finding and that public convenience and necessity now require the motor carrier
7 operation.

8 (5) (a) A Class B motor carrier may protest any application for a Class B certificate even if the application
9 is for a certificate of a different service type.

10 (b) The commission may not charge a protest fee.

11 (c) If a person filing a protest does not attend the subsequent hearing, the person must be charged a
12 \$500 nonappearance fee."

13
14 NEW SECTION. Section 11. Grandfather clause -- transition. (1) A person or corporation operating
15 as a certified Class B motor carrier on or before September 30, 2009, and providing taxicab or shuttle services
16 must be considered to possess a valid taxicab service certificate.

17 (2) Upon modification, sale, lease, or other change to a current Class B certificate, the commission shall
18 update a certificate permitting operation of a taxicab or shuttle service that was issued on or before September
19 30, 2009, with a certificate permitting operation of a taxicab service pursuant to 69-12-301. The commission shall
20 also impose a passenger limit at this time.

21 (3) A motor carrier wishing to provide a separate limousine or trolley bus service after being issued a
22 taxicab certificate pursuant to subsection (2) shall apply for a separate certificate pursuant to 69-12-312.

23
24 NEW SECTION. Section 12. Codification instruction. [Sections 1 through 4] are intended to be
25 codified as an integral part of Title 69, chapter 12, part 1, and the provisions of Title 69, chapter 12, part 1, apply
26 to [sections 1 through 4].

27 - END -